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ASD(Comp)

Department of Defense Directive

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SUBJECT Policies and Procedures Governing the Use of the Authority
of Section 3732, Revised Statutes

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Reference: (a) DoD Directive 7200.1, Administrative Control
of Appropriations Within the Department of
Defense, August 18, 1955

I. PURPOSE

This directive establishes the policy of the Department of Defense and the basic procedures to be followed with respect to the use of the authority of Section 3732, Revised Statutes (41 U.S.C. IL), which authorizes military departments to incur obligations for specific purposes in excess of appropriations available therefor.

II* APPLICABILITY

The provisions of this directive are applicable to all components of the military departments of the Department of Defense to which appropriations and funds are made available.

III. STATUTORY AUTHORITIES AND REQUIREMENTS

A. Section 3732, Revised Statutes, authorizes military departments to incur obligations in excess of available appropriations in procuring or furnishing clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital supplies not to exceed the necessities of the current fiscal year.

B. Section 404, Public Law 216, 81st congress, requires the Secretary of Defense to approve scheduled rates of obligations of funds appropriated to the Department of Defense for the purpose of restricting obligations and expenditures as may be necessary to prevent over-drafts and deficiencies in any fiscal year for which appropriations are made. While Section 404 exempts the Secretary of Defense from the legal

requirement of actually preventing over-drafts and deficiencies in the specific areas permitted under Section 3732, Revised Statutes, it does not relieve him of the responsibility for regulating rates of obligations in such areas as may be necessary or appropriate to reduce to an absolute minimum over-obligations arising from the use of the authority of Section 3732.

- C. Department of Defense Directive 7200.1 which implemented the requirements of Section 3679, Revised Statutes, established the basic system of controls, and other fundamental requirements to be observed by components of the Department of Defense in administration of appropriations and funds. The system of administrative control was designed to restrict obligations and expenditures against appropriations and funds to the amounts available therein or to the amounts apportioned, and to enable officials to fix responsibility in the officers and employees of the Department of Defense who violate any provision of the law or regulations.

III. POLICY

- A. It shall be the policy of the Department of Defense to limit the use of the authority of Section 3732 to emergency circumstances, the exigencies of which are such that immediate action is imperative, and such action cannot be delayed long enough to obtain sufficient funds to cover the procurement or furnishing of clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital supplies for necessities of the current fiscal year. In determining the urgency of the circumstances, due consideration shall be given in each specific case, to the feasibility of obtaining funds through such rapid means of communications as telephone, telegraph or radio. The authority of Section 3732, Revised Statutes, will not be used to circumvent the provisions of Section 3679, Revised Statutes.
- B. It is not considered practicable to define in specific terms the conditions and circumstances which conceivably could constitute an emergency. Each instance in which the authority of Section 3732 is to be used must be determined upon the basis of the facts in each case, in light of the broad policy guidelines set forth in this directive.
- C. It shall be expected that funds will be administered in accordance with the administrative control system established by Department of Defense Directive 7200.1

and in such a manner that officials, responsible for administering each appropriation, allocation, allotment, and other fund subdivisions, may take timely action to prevent overobligation of any fund subdivision, notwithstanding Section 3732.

- D. Overobligation of any appropriation or fund subject to apportionment, or any subdivision thereof for procurement or furnishing of clothing, subsistence, forage, fuel, quarters, transportation, or medical and hospital supplies shall be deemed to be a violation of Section 3679 unless such overobligation was made: (1) in emergency circumstances in accordance with the spirit and intent of provisions set forth above, and (2) such procurements are not in excess of the necessities to relieve the period of emergency, and provided, however, the necessities for such period do not exceed the necessities of the current fiscal year.

V. PROCEDURES APPLICABLE TO USE OF AUTHORITY OF SECTION 3732

- A. When it is necessary to create or authorize an overobligation for the purposes set forth in Section 3732, the official or officer responsible shall determine, and so certify in writing, that an emergency existed within the spirit and intent of Section IV of this directive, that the purpose for which the overobligation was created or authorized was to meet only the necessities of the period involved, and that it was not feasible to obtain in advance sufficient funds to cover such necessities.
- B. Such certification shall indicate the amount of the overobligation and shall be filed with the supporting records of the appropriation, allocation or allotment involved. The overobligation shall be fully disclosed in the fiscal reports to the next higher echelon, indicating that the overobligation was incurred under authority of Section 3732.
- C. Having exercised the authority of Section 3732 pursuant to this directive, the official or officer responsible immediately shall advise the next higher echelon and take appropriate steps to obtain additional funds. *
- Y). Subject to the provisions of Section IV, obligations incurred under the authority of Section- 3732 in excess of funds available to the military service shall be reported monthly to the Assistant Secretary of Defense (Comptroller) under Report Control Symbol DD-Comp (M)471 in the following manner: *

1. The report should contain a summary of all pertinent facts, including (but not necessarily limited to) the following:

- (a) The name of the installation or other organization where the overobligation occurred or was authorized.
- (b) Identification of the appropriation, allocation or allotment involved.
- (c) Amount of overobligation.
- (d) Name and position of the person who authorized the overobligation.
- (e) Brief description of the causes and circumstances which were deemed to warrant emergency circumstances.

2. Two copies of each report shall be submitted to the Assistant Secretary of Defense (Comptroller) within thirty days after the end of the quarter.

VI. EFFECTIVE DATE

This directive is effective upon issuance of implementing instructions by the military departments.

VII. IMPLEMENTATION

All regulations and instructions issued in implementation of this directive shall be admitted to the Assistant Secretary of Defense (Comptroller) for approval within 30 days after the issuance date of this directive.



Secretary of Defense